Supreme Court, U.S.
FILED

98 1858 MAY 18 1999

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CASE NUMBER
SUPREME COURT OF THE UNITED STATES
OCTOBER, 1998 TERM

DONNA MARIE BETTS, PETITIONER

VS.

CONTAINER CORPORATION OF AMERICA AND ITS AGENTS, SUCCESSORS AND ASSIGNS, RESPONDENTS

ON APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, CASE NUMBERS: 98-4076 AND 98-2513 (CONSOLIDATED)

PETITION FOR WRIT OF CERTIORARI

DONNA MARIE BETTS, PRO SE
7339 S. RACINE AVENUE
CHICAGO, ILLINOIS 60636-4111
773-783-0018

9PP

1. ARE THE PROCEDURES OF THE U.S. DISTRICT COURT IN CASE 94 CV 242, IN THEIR ENTIRETY, AND THE PROCEDURES OF THE U.S. COURT OF APPEALS UPON RELATED MATTERS WHICH CAME BEFORE SUCH COURT SUBSEQUENT TO U.S. DISTRICT COURT PROCEDURES LEGALLY VALID IN THAT JUDGE PLUNKETT DETERMINED THAT ILLINOIS LAWS GOVERN THIS DISPUTE (APPENDIX WITH THIS PETITION AT PAGE 20) BUT SUCH GOVERNING LAWS ARE NOT THE BASIS APPLIED TO DETERMINE MY LEGAL RIGHTS TO REMEDIES AND RELIEFS (APPENDIX WITH THIS PETITION AT PAGES 1, 3, 7, 13)?

2. WAS IT PROPER FOR THE LOWER COURTS TO REFUSE TO ENFORCE THE UNREPUDIATED AND RATIFIED SETTLEMENT AGREEMENTS?

(S.CT. RULE 14.1(A)).

AGENTS OF THE RESPONDENT ARE:
MR. JAMES FRICK
MR. CHARLES WHALEN
MS. RUBY SMITH
MS. MARY THORKELSON
MR. MICHAEL WEINBAUM -
HOAGLAND, FITZGERALD, SMITH &
PRANAITIS
WINSTON & STRAWN
SCHUYLER, ROCHE
GARDNER, CARTON & DOUGLAS

THE PARENT COMPANIES ARE MOBIL CORPORATION AND CURRENTLY, JEFFERSON SMURFIT CORPORATION AS CURRENTLY OWNED BY SMURFIT-STONE CORPORATION. (S.CT. RULE 14.1(B)).

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28 USC:
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U.S.D.C. ORDER OF APRIL 1, 1998
U.S.C.A. ORDER OF MAY 7, 1997
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IHRC ORDERS OF APRIL 29, 1988
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(S.CT. RULE 14.1(D))

FEBRUARY 25, 1999 **(S.CT. RULE 14.1(E)(I)).**

28 USC §1254(1) **(S.CT. RULE 14.1(E)(IV)).**

WALLACE V. HUMAN RIGHTS COMMISSION, 633 N.E.2D 851 (ILL.APP. 1 DIST. 1994);
29 C.F.R. §1601.21(E) ET SEQ.;

56 Illinois Administrative Code,
§§5300.480 and 5300.490;
Illinois Code of Civil Procedure,
§2-610 et seq.;
Illinois Human Rights Act §2-102;
§6-101 and §8A-104;
28 USC:
§1254; §1331; §1332; §1343; §1345.

(S.Ct. Rule 14.1(f))

It is submitted that Judge Plunkett, in Case 94 CV 242, determined that Illinois laws govern this dispute (Appendix with this Petition at page 20). It is submitted that my exclusive remedies regarding my charges are established pursuant to Illinois case law contained in Wallace v. Human Rights Commission, 633 N.E.2d 851 (Ill.App. 1 Dist. 1994). It is submitted that neither of the lower federal courts applied governing Illinois laws to the entire record of facts (See record of litigation from 1985 to date, S.Ct. Rule 12.7) to determine my

LEGAL RIGHTS TO REMEDIES AND RELIEFS (APPENDIX WITH THIS PETITION AT PAGES 1-21). IT IS SUBMITTED THAT THE ILLINOIS PROVISIONS OF LAW AT PAGES 26 THROUGH 32 OF THE APPENDIX FILED WITH THIS PETITION ARE THE GOVERNING ILLINOIS LAWS WHICH ARE REQUIRED TO DETERMINE THIS DISPUTE AS NOT APPLIED.

IT IS SUBMITTED THAT THE RECORD OF LITIGATION SHOWS THAT SETTLEMENT AGREEMENTS WERE RATIFIED AND UNREPUDIATED (SEE APPEAL 95-1064, REF. 704286-1, APPENDIX EXHS. 35, 36, 37, 38, 39, 62 AND CASE REC. DOC. 86 EXH. 18, S.CT. RULE 12.7 AND APPENDIX WITH THIS PETITION AT PAGES 36-37).

IT IS SUBMITTED THAT THE ILLINOIS HUMAN RIGHTS COMMISSION HAS NOT COMPLIED WITH 56 ILLINOIS ADMINISTRATIVE CODE §§5300.480 AND IS IN VIOLATION OF 5300.490 (APPENDIX WITH THIS PETITION AT PAGE 26), IN REGARD TO EACH OF MY RELATED ADMINISTRATIVE APPEALS (SEE CASE

Rec. Docs. 108 and 109 and Appeal 95-1064 Ref. 704286-1 Exhs. 19 and 20, S.Ct. Rule 12.7). It is submitted that because the Illinois Human Rights Commission is not in compliance with governing Illinois laws, the E.E.O.C. proceeded improperly to issue notices of right to sue and a determination to me in regard to each of my civil rights matters as it is submitted that the E.E.O.C. is required to comply with 29 C.F.R. §1601.21(e) et seq. (Appendix with this Petition at pages 24 and 25 and See Ref. 704286-1 Exhs. 21, 22, 51, S.Ct. Rule 12.7).

In that it is submitted that the E.E.O.C. proceeded improperly, the U.S. District Court and the U.S. Court of Appeals, in reliance upon procedures of the EEOC, are submitted to have proceeded entirely without jurisdiction to enter determinations of my legal rights.
(S.Ct. Rule 14.1(g)).

Original jurisdiction to hear my complaints before the U.S. District Court is submitted to be conveyed

BY 28 U.S.C. §§1331, 1332, 1343, AND 1345 (APPENDIX WITH THIS PETITION AT PAGES 33-35) (S.CT. RULE 14.1(G)(II)).

IT IS SUBMITTED THAT LACK OF JURISDICTION IS A SUFFICIENT REASON TO VOID THE PROCEDURES OF THE LOWER FEDERAL COURTS. IT IS FURTHER SUBMITTED THAT, IN THAT ILLINOIS LAWS ARE GOVERNING, THE PROCEDURES OF THE LOWER FEDERAL COURTS ARE ENTERED WITHOUT APPLICATION OF THE GOVERNING LAW AND, THEREFORE, BELIEVED AND SUBMITTED TO BE VOID AS DEPARTURES FROM THE STANDARDS OF CASE AND STATUTORY LAWS ASSERTED IN THE COURSE OF LITIGATION, (SEE RECORD OF LITIGATION FROM 1985 TO DATE, S.CT. RULE 12.7) (S.CT. RULE 14.1(H)).

WHEREFORE, I RESPECTFULLY REQUEST THE SUPREME COURT TO GRANT THE ISSUANCE OF A WRIT OF CERTIORARI AS IT IS SUBMITTED THAT I WAS NOT MADE ENTIRELY AND COMPLETELY WHOLE IN REGARD TO EACH ADMITTED MATERIAL

FACT CONTAINED IN THE RECORD OF LITIGATION FROM 1985 TO DATE (SEE RECORD OF LITIGATION IN ITS ENTIRETY, S.CT. RULE 12.7).

Donna M. Betts

DONNA M. BETTS, PETITIONER
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CHICAGO, ILLINOIS 60636
773-783-0018

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CASE NUMBER
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OCTOBER, 1998 TERM

DONNA MARIE BETTS, PETITIONER

VS.

CONTAINER CORPORATION OF AMERICA AND ITS AGENTS, SUCCESSORS AND ASSIGNS, RESPONDENTS

ON APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, CASE NUMBERS: 98-4076 AND 98-2513 (CONSOLIDATED)

APPENDIX

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Authorities

February 25, 1999 Order of the U.S. Court of Appeals at pages 1-2, referenced in Petition at page iv;

April 1, 1998 Order of the U.S. District Court at pages 3-6, referenced in Petition at page iv;

May 7, 1997 Order of the U.S. Court of Appeals at pages 7-12, referenced in Petition at page iv;

December 19, 1994 Order of the U.S. District Court at pages 13-21, referenced in Petition at pages iv and v;

April 29, 1988 Order of the Illinois Human Rights Commission in Charge Nos. 1986CF1485/051862412 at page 22, referenced in Petition at page iv;

April 29, 1988 Order of the Illinois Human Rights Commission in Charge Nos. 1986CF0866/051860408 at page 23, referenced in Petition at page iv;

29 C.F.R. §1601.21(e) et seq. at pages 24-25, referenced in Petition at pages iv and 2;
56 Illinois Administrative Code, §5300.480 at page 26, referenced in Petition at page 1;
§5300.490 at page 26, referenced in Petition at page 1;
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Letter regarding settlement demand issued by the Illinois Department of Human Rights on February 15, 1990 at pages 36-37, referenced in Petition at page 1;

COMPLAINT OF CIVIL RIGHTS VIOLATION FILED BY THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS ON MAY 18, 1990 AT PAGES 38-45

ORDER OF THE ILLINOIS HUMAN RIGHTS COMMISSION REGARDING COMPLAINT FILED BY THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS AT PAGES 46-48

Before the U.S. Court of Appeals
For the Seventh Circuit
Hon. Richard A. Posner, Chief Judge
Hon. Michael S. Kanne, Circuit Judge
Hon. Terence T. Evans, Circuit Judge
Order of February 25, 1999

Betts v. Container Corp. of America,
Nos. 98-2513 and 98-4076

Donna M. Betts, who worked for the Container Corporation of America for 5 years but was fired in 1985, is nothing if not persistent. She has doggedly pursued her claim against CCA, and this is the second time her case has been before us. In May of 1997 we affirmed a grant of summary judgment dismissing her discrimination claim against CCA but remanded so the district court could reconsider its grant of summary judgment on a retaliation charge that had a spark of life after the Supreme Court decided Robinson v. Shell Oil Co., 117 S. Ctg. 843 (1997). On remand, the case moved from Disrict Judge Paul E. Plunkett to District Judge Blanche M. Manning, but the change of judge didn't help

MS. BETTS. JUDGE MANNING RULED THAT THE RETALIATION CLAIM WAS MOOT, AND THAT PROMPTED THE APPEAL WE ARE CONSIDERING TODAY.

BETTS' RETALIATION CLAIM IS BASED ON CCA'S RESISTANCE TO HER PURSUIT OF UNEMPLOYMENT COMPENSATION BENEFITS IN NOVEMBER OF 1985. AFTER A HEARING BEFORE THE ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY BOARD OF REVIEW, BETTS WAS AWARDED THOSE BENEFITS IN JANUARY OF 1986.

THE PURPOSE OF TITLE VII IS TO PUT AN AGGRIEVED PARTY IN ESSENTIALLY THE SAME POSITION SHE WOULD HAVE BEEN IN BUT FOR AN EMPLOYER'S INTERFERENCE WITH A PROTECTED RIGHT. IN THIS CASE, ON THE REMAINING CLAIM, MS. BETTS SAID CCA RETALIATED AGAINST [HER] BY DENYING

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[1] AFTER AN EXAMINATION OF THE BRIEFS AND THE RECORD, WE HAVE CONCLUDED THAT ORAL ARGUMENT IS UNNECESSARY, AND THE APPEAL IS SUBMITTED ON THE BRIEFS AND THE RECORD. SEE FED. R. APP. P. 34(A): CIR. R. 34(F).

AND THEN FIGHTING HER CLAIM FOR UNEMPLOYMENT BENEFITS. BUT MS. BETTS WAS CLEARLY "MADE WHOLE" AND FULLY COMPENSATED WHEN SHE RECEIVED THOSE BENEFITS. WITHOUT THE AVAILABILITY OF COMPENSATORY OR PUNITIVE DAMAGES --NOTHING MORE COULD BE AWARDED TO BETTS THAN WHAT SHE ALREADY HAD IN HER POCKET AFTER THE REVIEW BOARD RULED IN HER FAVOR A BAKER'S DOZEN YEARS AGO. ACCORDINGLY, THE DISTRICT COURT CORRECTLY SENSED THAT WHAT WAS LEFT OF THIS CASE AFTER OUR FIRST REMAND WAS MOOT. ACCORDINGLY, WE AFFIRM THE JUDGMENT OF THE DISTRICT COURT.

(S.CT. RULE 14.1(1)(1)

Before the U.S. District Court
For the Northern District of Illinois
Presiding Judge B. Manning
Order of April 1, 1998

Betts v. Container Corp. of America,
94 CV 242

The Seventh Circuit remanded this race discrimination case brought by plaintiff Donna Betts against her former employer, Container Corporation of America ("CCA"), for further consideration of Betts' retaliation calim in light of Robinson v. Shell Oil Co., 117 S.Ct. 842 (1997). Betts v. Container Corp. of America, No. 95-1064, 1997 WL 235808 (7th Cir. May 7, 1997). As the Seventh Circuit put it, Robinson, which allows former employees to raise Title VII claims, "means that Betts' retaliation claim has risen from the dead." Accordingly, the Seventh Circuit remanded this case to allow this court to consider Betts retaliation claim as well as CCA's argument that her retaliation claim is moot because Betts ultimately

RECEIVED THE CONTESTED EMPLOYMENT BENEFITS SHE SOUGHT.

THIS COURT IS THE THIRD DISTRICT COURT TO CONSIDER BETTS' CLAIMS, WHICH STEM FROM HER TERMINATION IN OCTOBER, 1985. THUS, THE COURT WILL ASSUME FAMILIARITY WITH THE TORTURED PROCEDURAL POSTURE OF THIS CASE. WITH RESPECT TO HER RETALIATION CLAIM, BETTS CLAIMS THAT CCA GAVE INACCURATE INFORMATION TO THE UNEMPLOYMENT OFFICE AFTER HER EMPLOYMENT WITH CCA ENDED.[1] SHE ARGUES

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[1] AS JUDGE PLUNKETT NOTED, CCA REPORTED THAT BETTS HAD RESIGNED AND HAD NOT BEEN FIRED. BETTS V. STATE OF ILLINOIS, NO. 94 C 242, 1994 WL 714545 *2 N.1 (N.D. ILL. DEC. 21, 1994) THIS COURT AGREES WITH JUDGE PLUNKETT THAT THE CIRCUMSTANCES SURROUNDING BETTS' DEPARTURE ARE SUSCEPTIBLE TO DIFFERENT INTERPRETATIONS. ID. IN ANY EVENT, FOR THE REASONS DISCUSSED IN THE TEXT, THE GRANTING OF UNEMPLOYMENT COMPENSATION BENEFITS IN JANUARY, 1986 RENDERS THIS ARGUMENT MOOT, AS BETTS WOULD NOT BE ENTITLED TO DAMAGES EVEN IF THE COURT WERE TO ACCEPT HER VERSION OF EVENTS.

THAT CCA DID SO TO RETALIATE AGAINST HER FOR BRINGING HER ORIGINAL DISCRIMINATION CHARGES AGAINST CCA.

CCA ARGUES THAT BETTS' RETALIATION CLAIM IS MOOT BECAUSE SHE RECEIVED THE UNEMPLOYMENT BENEFITS UNDERLYING HER CLAIM OF RETALIATION. THERE IS NO EVIDENCE IN THE RECORD SUPPORT IN ANY WAY A FINDING THAT CCA ACTED WITH MALICE OR RECKLESS INDIFFERENCE TO BETTS' RIGHTS, OR THAT BETTS SUFFERED ANY COMPENSABLE NONPECUNIARY DAMAGES. SEE WILLIAMS V. PHARMACIA, INC., NO. 96-4221, 1998 WL 81258 *9 (7TH CIR. 1998). THUS, COMPENSATORY DAMAGES (I.E., DAMAGES REPRESENING BETTS' UNEMPLOYMENT BENEFITS) ARE THE ONLY DAMAGES AVAILABLE TO HER. SEE ID.

THE COURT HAS CAREFULLY EXAMINED BETTS' PRO SE PLEADINGS AND HAS CONSTRUED THOSE PLEADINGS LIBERALLY. NEVERTHELESS, IT IS CLEAR THAT, GIVEN THAT BETTS HAS RECEIVED THE UNEMPLOYMENT BENFITS SHE SOUGHT, SHE HAS NOTHING TO GAIN FROM CONTINUED PURSUIT OF THIS SUIT. THUS, HER RETALIATION CLAIMS, WHICH ARE THE ONLY CLAIMS BEFORE THIS COURT, ARE MOOT. SEE WHITAKER V. AMERITECH CORP., 129 F.3D 952, 959

(7th Cir. 1997); Tucker v. United States Department of Commerce, 958 F.2d 1411, 1415 (7th Cir. 1992).

Accordingly, the court grants CCA's motion for summary judgment with respect to Betts' retaliation claim [50-1]. In addition, Betts' motion to vacate [132-1] is denied. This is a final and appealable order.

S.Ct. Rule 14.1(i)(ii)

CASE 95-1064
UNITED STATES COURT OF APPEALS
ENTERED: MAY 7, 1997

DONNA M. BETTS,
PLAINTIFF - APPELLANT

V.

CONTAINER CORPORATION OF AMERICA, AND ITS AGENTS, SUCCESSORS, AND ASSIGNS,
DEFENDANTS - APPELLEES

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, NUMBER 94 C 242, PAUL E. PLUNKETT, JUDGE

ORDER

BEFORE: JUDGE RICHARD A. POSNER,
CHIEF JUDGE
JUDGE MICHAEL S. KANNE,
CIRCUIT JUDGE
JUDGE TERENCE T. EVAN,
CIRCUIT JUDGE

THE EVENTS THAT FORM THE BASIS FOR THIS CASE OCCURRED, UNBELIEVABLY, ALMOST A DOZEN YEARS AGO. HAD THE CASE MOVED SWIFTLY, IT WOULD HAVE BEEN CLOSED LONG AGO. BUT BECAUSE IT HAS DRAGGED ON SO LONG, THE PLAINTIFF DONNA BETTS GETS THE BENEFIT OF A RECENT SUPREME COURT DECISION WHICH BREATHES NEW LIFE INTO ONE OF HER CLAIMS.

BETTS WAS HIRED BY THE CONTAINER CORPORATION OF AMERICA (CCA) IN MARCH OF 1980. SHE WAS FIRED ON OCTOBER 10, 1985. AFTER BEING SHOWN THE DOOR, SHE FILED A CHARGE WITH BOTH THE ILLINOIS HUMAN RIGHTS

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[1] AFTER AN EXAMINATION OF THE BRIEFS AND THE RECORD, WE HAVE CONCLUDED THAT ORAL ARGUMENT IS UNNECESSARY, AND THE APPEAL IS SUBMITTED ON THE BRIEFS AND THE RECORD. SEE FED. R. APP. P. 34(A); CIR. R. 34(F). THE ORAL ARGUMENT SCHEDULED FOR MAY 15, 1997, CANCELED.

DEPARTMENT AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ALLEGING THAT HER TERMINATION WAS RACIALLY MOTIVATED. SUBSEQUENT TO HER TERMINATION, SHE APPLIED FOR UNEMPLOYMENT BENEFITS, WHICH CCA OPPOSED. BETTS THEN TACKED ON ANOTHER CHARGE AGAINST CCA, ALLEGING THAT ITS OPPOSITION TO HER UNEMPLOYMENT CLAIM WAS LODGED IN RETALIATION FOR HER EARLIER DISCRIMINATION CLAIM.

THE EEOC FOUND NO BASIS FOR BETTS' CLAIM OF RACIAL DISCRIMINATION. IT CLOSED THE BOOK ON THAT CLAIM AND ISSUED A "NOTICE OF RIGHT TO SUE" LETTER ON SEPTEMBER 25, 1986. BETTS DID NOT SUE, ALTHOUGH SHE DID ASK THE EEOC TO VACATE ITS FINDING. THE EEOC DID NOT FAVORABLY RESPOND TO THE REQUEST FOR RECONSIDERATION AND DID NOTHING TO LEAD BETTS TO THINK THAT ITS POSITION WAS GOING TO CHANGE.

SIX YEARS PASSED. IN OCTOBER OF 1993 THE EEOC ISSUED A RIGHT-TO-SUE LETTER BASED SOLELY ON BETTS' CLAIM OF RETALIATION. BETTS THEN FILED THIS SUE, PRO SE, RAISING BOTH THE RACE AND RETALIATION CLAIMS. CCA MOVED FOR SUMMARY JUDGMENT AND THE DISTRICT COURT GRANTED THE MOTION. THE COURT CONCLUDED THAT THE RACE CLAIM WAS TIME-BARRED AND THE RETALIATION CLAIM WAS A LOSER BECAUSE TITLE VII AFFORDS NO REMEDY FOR POST-TERMINATION RETALIATION AGAINST FORMER EMPLOYEES. BETTS APPEALED, AGAIN PRO SE, BUT WE ASKED A LAWYER, MITCHELL FRAZEN, TO TAKE UP BETTS' CLAIM OF RETALIATION AS AN AMICUS CURIAE. BRIEFING IN THE CASE WAS COMPLETED IN 1996.

THE DISTRICT COURT CORRECTLY CONCLUDED THAT BETTS' RACE CLAIM WAS BARRED BECAUSE IT WAS NOT TIMELY FILED. IN DISMISSING THE RETALIATION CLAIM, HOWEVER, THE DISTRICT COURT RELIED ON REED V. SHEPARD, 939 F.2D 484 (7TH CIR. 1991), WHICH APPEARED

TO DOOM THE CLAIM. AFTER THE DISTRICT COURT ACTED, HOWEVER, WE DECIDED VEPRINSKY V. FLUOR DANIEL, INC., 87 F.3D 881 (7TH CIR. 1996), WHICH MOVED AWAY FROM THE REASONING EMPLOYED IN REED. AND THEN, IN FEBRUARY OF 1997, THE SUPREME COURT HELD THAT FORMER EMPLOYEES WERE COVERED UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 BECAUSE THE ACT WAS NOT LIMITED TO PROTECTING ONLY CURRENT EMPLOYEES. ROBINSON V. SHELL OIL CO., 117 S. CT. 843 (FEB. 18, 1997). ROBINSON MEANS THAT BETTS' RETALIATION CLAIM HAS RISEN FROM THE DEAD AND MUST BE REMANDED TO THE DISTRICT COURT FOR FURTHER PROCEEDINGS.

IN REMANDING, WE NOTE THAT CCA ALSO ASKED THE DISTRICT COURT TO DISMISS THE RETALIATION CHARGE AS MOOT. THE COURT, HOWEVER, DID NOT CONSIDER THAT DEFENSE. WHILE MOOTNESS HERE MAY INDEED BE A VALID DEFENSE BECAUSE BETTS ULTIMATELY DID RECEIVE THE CONTESTED UNEMPLOY-

MENT BENEFITS, WE LEAVE IT TO THE DISTRICT COURT IN THE FIRST INSTANCE TO DECIDE WHETHER MOOTNESS HERE CAN CARRY THE DAY FOR CCA.

FOR THESE REASONS, THE JUDGMENT BELOW IS REVERSED IN PART AND THE CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS ORDER.

(S. CT. RULE 14(1)(I) SUB (I))

94 CV 242
UNITED STATES DISTRICT COURT
ENTERED: DECEMBER 19, 1994

DONNA M. BETTS,
PLAINTIFF,

VS.

STATE OF ILLINOIS, THE, AND ITS AGENCIES, AGENTS, SUCCESSORS AND ASSIGNS; CONTAINER CORPORATION OF AMERICA, AND AGENTS, SUCCESSORS AND ASSIGNS,
DEFENDANTS.

MEMORANDUM OPINION AND ORDER ENTERED BY JUDGE PAUL E. PLUNKETT, JUDGE

THE PLAINTIFF, DONNA M. BETTS ("BETTS") WAS EMPLOYED BY THE DEFENDANT, CONTAINER CORPORATION OF AMERICA ("CCA") FROM MARCH 1980 UNTIL HER TERMINATION ON OCTOBER 10, 1985. BETTS PROMPTLY FILED CHARGES WITH THE ILLINOIS HUMAN RIGHTS DEPARTMENT ("HRD"), CLAIMING HER

termination was racially motivated. In December 1985, Betts amended her charge with both HRD and the EEOC to include an allegation that CCA had supplied "inaccurate information" to the Illinois Unemployment Insurance Office, which adversely affected her benefits in retaliation for her original discrimination charge.

Betts was granted her unemployment benefits by the Illinois Department of Employment Security on January 31, 1986, a decision later affirmed by the Board of Review on September 16, 1986.

On September 25, 1987, the EEOC issued a determination unfavorable to Betts and a "Notice of Right to Sue" with respect to the race discrimination charge arising out of her termination, which notified Betts that she must file suit within ninety days of her receipt of that notice or her right to sue would be lost. This notice was received by Betts on October 10,

1987. Betts did not sue. Instead, on October 28, 1987, she asked the EEOC to vacate its finding of September 25, 1987, pending further proceedings with HRD. The EEOC did not send a notice or intent to reconsider.

Some six years later, the EEOC issued a right to sue letter solely on Betts' charge of retaliation. Betts then filed her complain in this Court on January 13, 1994, complaining both of termination based on race and retaliatory action when she sought her unemployment benefits. CCA has filed a motion for summary judgment, claiming that the race termination suit is filed nearly six years too late. Also, CCA asserts that the retaliation claim is barred because Title VII affords no remedy for post-termination retaliation and because since Betts was awarded unemployment benefits, the claim is moot. Betts responds with a ream of papers that do not address any of CCA's assertions, but which do apparently argue:

THE COURT DOES NOT HAVE JURISDICTION OVER HER RACE DISCRIMINATION COMPLAINT BECAUSE AN APPEAL IS PENDING IN THE SEVENTH CIRCUIT.

THE CASE HAS BEEN SETTLED AND CCA HAS BREACHED THE SETTLEMENT AGREEMENT.

BETTS ALSO ARGUES THAT SHE IS ENTITLED TO SUMMARY JUDGMENT HERSELF BECAUSE DEFENDANT WITHDREW AN EARLIER VERSION OF ITS MOTION FOR SUMMARY JUDGMENT.

BETTS' RACE CLAIM WAS FILED OVER SIX YEARS AFTER SHE RECEIVED HER RIGHT TO SUE LETTER. THE FILING OF A COMPLAINT UNDER TITLE VII EVEN ONE DAY AFTER THE NINETY DAYS PERMITTED BY THE STATUTE BARS THE COMPLAINT. ANNOYA V. HILTON HOTELS CORP., 733 F.2D 48 (7TH CIR. 1984). SINCE BETTS ADMITS SENDING HER RIGHT TO SUE LETTER ON OCTOBER 10, 1987, HER CLAIM MUST BE DISMISSED AS UNTIMELY. HER ONLY POSSIBLE "OUT" OF THIS FATAL DELAY

ARISES FROM HER MOTION OF OCTOBER 28, 1987, ASKING THE EEOC TO RECONSIDER HER CHARGE. BUT THE LAW SEEMS SETTLED THAT UNLESS THE EEOC SENDS A NOTICE OF ITS RECONSIDERATION WITHIN NINETY DAYS OF THE CHARGING PARTY'S RECEIPT OF THE RIGHT TO SUE LETTER, THE EEOC DETERMINATION IS FINAL. 29 C.F.R. §1601.19(A); GONZALES V. FIRESTONE TIRE & RUBBER CO., 610 F.2D 241, 246 (5TH CIR. 1980); MAHROOM V. DEFENSE LANGUAGE INSI., 732 F.2D 1439, 1440-41 (9TH CIR. 1987); SOSO LIANG LO V. PAN AM. WORLD AIRWAYS, INC., 787 F.2D 827 (2D CIR. 1986). TO MAKE MATTERS EVEN WORSE, THE EEOC APPARENTLY NEVER DID RECONSIDER ITS DECISION OF NO CAUSE AND ITS RIGHT TO SUE ON THE ALLEGED RACE-BASED TERMINATION. IN 1993, IT SIMPLY, ISSUED A RIGHT TO SUE ON THE CLAIM FOR RETALIATION. IT MAY VERY WELL BE THAT BETTS WAS UNDER THE MISTAKEN BELIEF THAT HER REQUEST TO RECONSIDER TOLLED THE TIME TO FILE HER SUIT. BUT IT DID NOT, AND EVEN A PRO SE PLAINTIFF'S MISUNDERSTANDING DOES NOT CAUSE THE NINETY-DAY TIME

LIMIT TO STOP RUNNING. DOUGHERTY V. BARRY, 869 F.2D 605 (D.C. CIR. 1989). THERE, JUDGE (NOW JUSTICE) GINSBERG, WRITING FOR THE COURT, HELD:

> THE EEOC'S FINDING, UPON RE-CONSIDERATION, OF PROBABLE CAUSE AND THE JUSTICE DEPARTMENT'S ISSUANCE OF A SECOND RIGHT TO SUE LETTER DO NOT ALTER THE FACT THAT THE EEOC DID NOT NOTIFY APPELLEES OF ITS INTENT TO RECONSIDER THEIR CHARGES WITHIN NINETY DAYS OF THE FIRST NOTICE. THE SECOND NOTICE THEREFORE SHOULD NOT WORK TO RECOVER A LOST RIGHT TO SUE.

869 F.2D AT 610-11. AS NOTED HERE, THE EEOC NEVER DID ISSUE A RECONSIDERATION LETTER. THUS, WE CONCLUDE THAT THE CLAIM FOR TERMINATION OF EMPLOYMENT BASED ON RACE IS TIME BARRED.

THE RETALIATION ACTION FARES NO BETTER. BETTS CLAIMS THAT CCA GAVE INACCURATE

INFORMATION TO THE UNEMPLOYMENT OFFICE,[1] WAS DESIGNED TO RETALIATE AGAINST HER FOR BRINGING HER ORIGINAL CHARGES. THE CIVIL RIGHTS ACT (§704(A)) APPLIES TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOT FORMER EMPLOYEES. THE SEVENTH CIRCUIT HAS HELD THAT SECTION 704(A) PROVIDES NO REMEDY FOR RETALIATION OCCURRING SUBSEQUENT TO THE TERMINATION OF EMPLOYMENT. REED V. SHEPARD, 939 F.2D 484, 492-93 (7TH CIR. 1991). THE CLAIM FOR RETALIATION MUST FAIL.

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[1]CCA REPORTED THAT BETTS HAD RESIGNED AND HAD NOT BEEN FIRED. THE CIRCUMSTANCES SURROUNDING HER DEPARTURE ARE SUSCEPTIBLE OF DIFFERENT INTERPRETATIONS. IN ANY EVENT, UNEMPLOYMENT COMPENSATION BENEFITS WERE PROMPTLY GRANTED IN JANUARY 1986. IT IS DIFFERENT TO SEE WHAT DAMAGES COULD BE CLAIMED IN THIS SCENARIO.

BETTS CLAIMS WE HAVE NO JURISDICTION BECAUSE AN APPEAL IS PENDING IN THE SEVENTH CIRCUIT ON THIS CASE. TRUE ENOUGH, BUT THE APPEAL IS FROM AN ORDER OF JUDGE SHADUR (WHO LATER RECUSED HIMSELF), WHICH DISMISSED ALL DEFENDANTS EXCEPT CCA. WE RETAIN JURISDICTION OVER THE PENDING CLAIMS AGAINST CCA AND THUS HAVE THE POWER TO GRANT SUMMARY JUDGMENT TO THAT DEFENDANT.

HER OTHER TWO ARGUMENTS MERIT LITTLE DISCUSSION. BETTS CLAIMS A SETTLEMENT BECAUSE SHE SENT A DEMAND THROUGH HRD TO CCA FOR SETTLEMENT, AND CCA DID NOT FORMALLY REJECT IT. ILLINOIS LAW, WHICH GOVERNS THIS DISPUTE MAKES ABUNDANTLY CLEAR THAT A FAILURE TO REJECT AN OFFER DOES NOT A CONTRACT MAKE. JOHNSON V. WHITNEY METAL TOOL CO., 96 N.E.2D 372, 376 (2D DIST. 1950); STANDARD GROWERS EXCHANGE, INC. V. BREDEHOFT, 227 ILL. APP. 72, 76 (3D DIST. 1922).

FINALLY, THE DEFENDANTS WITHDRAWAL OF AN EARLIER DRAFT OF A MOTION FOR

SUMMARY JUDGMENT GIVEN TO BETTS IS WITHOUT LEGAL CONSEQUENCE. THE DRAFT WAS NOT EVEN FILED WITH THIS COURT. EVEN [IF] IT HAD BEEN, ITS WITHDRAWAL CANNOT BE IMAGINED TO PERMIT BETTS TO DEFEAT CCA'S MOTION FOR SUMMARY JUDGMENT OR, AS SHE CLAIMS, ENTITLE HER TO SUMMARY JUDGMENT.

CCA'S MOTION FOR SUMMARY JUDGMENT IS GRANTED, AND THE COMPLAINT IS DISMISSED IN ITS ENTIRETY. THIS IS A FINAL AND APPEALABLE ORDER.

IF MS. BETTS WISHES TO APPEAL, SHE MUST FILE A NOTICE OF APPEAL IN TEN (10) DAYS. THE NOTICE CAN BE OBTAINED FROM THE CLERK'S OFFICE FOR THE SEVENTH CIRCUIT. THEREAFTER, SHE MUST FOLLOW ALL THE RULES GOVERNING HER APPEAL.

(S. CT. RULE 14.1(1) SUB (11))

CHARGE NO: 1986CF1485/051862412
ILLINOIS HUMAN RIGHTS COMMISSION
APRIL 29, 1988

BETTS VS. CONTAINER CORPORATION OF AMERICA.

ORDER

THIS MATTER COMES TO THE COMMISSION UPON COMPLAINANT'S REQUEST FOR REVIEW OF THE DISMISSAL OF CHARGE NO(S). 1986CF1485 AGAINST CONTAINER CORPORATION OF AMERICA, AND THE RESPONSE OF THE DEPARTMENT OF HUMAN RIGHTS.

THE DEPARTMENT OF HUMAN RIGHTS, UNDER SECTION 4.3 OF THE RULES AND REGULATIONS OF THE HUMAN RIGHTS COMMISSION HAS FILED ITS RESPONSE IN WHICH IT DOES NOT OPPOSE THE REQUEST.

WHEREFORE, PURSUANT TO SECTION 4.6 OF THE AFOREMENTIONED RULES AND REGULATIONS, IT IS ORDERED THAT THE DISMISSAL OF CHARGE NO(S). 1986CF1485, BE, AND HEREBY IS VACATED AND THAT THE CHARGE BE REINSTATED FOR FURTHER PROCEEDINGS BY THE DEPARTMENT.

SS/DAVID STRAUSS
EXECUTIVE DIRECTOR
S.CT. RULE 14.1(I)(I)

CHARGE NO: 1986CF0866/051860408
ILLINOIS HUMAN RIGHTS COMMISSION
APRIL 29, 1988

BETTS VS. CONTAINER CORPORATION OF AMERICA.

ORDER

THIS MATTER COMES TO THE COMMISSION UPON COMPLAINANT'S REQUEST FOR REVIEW OF THE DISMISSAL OF CHARGE NO(S). 1986CF0866 AGAINST CONTAINER CORPORATION OF AMERICA, AND THE RESPONSE OF THE DEPARTMENT OF HUMAN RIGHTS.

THE DEPARTMENT OF HUMAN RIGHTS, UNDER SECTION 4.3 OF THE RULES AND REGULATIONS OF THE HUMAN RIGHTS COMMISSION HAS FILED ITS RESPONSE IN WHICH IT DOES NOT OPPOSE THE REQUEST.

WHEREFORE, PURSUANT TO SECTION 4.6 OF THE AFOREMENTIONED RULES AND REGULATIONS, IT IS ORDERED THAT THE DISMISSAL OF CHARGE NO(S). 1986CF0866, BE, AND HEREBY IS VACATED AND THAT THE CHARGE BE REINSTATED FOR FURTHER PROCEEDINGS BY THE DEPARTMENT.

SS/DAVID STRAUSS
EXECUTIVE DIRECTOR
S.CT. RULE 14.1(1)(1)

29 C.F.R. §1601.21(e) ET SEQ.

"(e) In making a determination as to whether reasonable cause exists, substantial weight shall be accorded final findings and orders made by designated FEP agencies to which the Commission defers charges pursuant to §1601.13. For the purposes of this section, the following definitions shall apply:

(1) "Final findings and orders" shall mean: (i) The findings of fact and order incident thereto issued by a FEP agency on the merits of a charge; or

(ii) The consent order or consent decree entered into by the FEP agency on the merits of a charge.

Provided, however, That no findings and over of a FEP agency shall be considered final for purposes of this section unless the FEP agency shall have served a copy of such findgins and order upon the Commission and upon the personal claiming to be aggrieved and shall have informed such person of his or her rights of appeal or to request reconsideration, or rehearing

OR SIMILAR RIGHTS; AND THE TIME FOR SUCH APPEAL, RECONSIDERATION, OR REHEARING REQUEST SHALL HAVE EXPIRED TO THE ISSUES OF SUCH APPEAL, RECONSIDERATION OR REHEARING SHALL HAVE BEEN DETERMINED.

(2) "SUBSTANTIAL WEIGHT" SHALL MEAN THAT SUCH FULL AND CAREFUL CONSIDERATION SHALL BE ACCORDED TO FINAL FINDINGS AND ORDERS, AS DEFINED ABOVE, AS IS APPROPRIATE IN LIGHT OF THE FACTS SUPPORTING THEM WHEN THEY MEET ALL OF THE PREREQUISITES SET FORTH BELOW:

(I) THE PROCEEDINGS WERE FAIR AND REGULAR; AND

(II) THE PRACTICES PROHIBITED BY THE STATE OR LOCAL LAW ARE COMPARABLE IN SCOPE TO THE PRACTICES PROHIBITED BY FEDERAL LAW; AND

(III) THE FINAL FINDINGS AND ORDER SERVE THE INTEREST OF THE EFFECTIVE ENFORCEMENT OF TITLE VII OR THE ADA:

PROVIDED, THAT GIVING SUBSTANTIAL WEIGHT TO FINAL FINDINGS AND ORDER OF A FEP AGENCY DOES NOT INCLUDE ACCORDING WEIGHT, FOR PURPOSES OF APPLYING FEDERAL LAW, TO SUCH AGENCY'S CONCLUSIONS OF LAW."

56 Illinois Administrative Code
"Section 5300.480 Decision
If the Commission Determines that the Department's Decision should be sustained, it shall enter an order statings its findings and reasons therefor, and in the case of a request for review of a decision to default, shall further order that the matter be referred to an administrative law judge for a hearing on damages. Otherwise, it shall order that the dismissal or default of the Department be vacated. The Commission shall immediately cause the order to be served on the Department and all parties to the charge."
"Section 5300.490 Tolling of Time Period
The time limitation established in paragraph (G) of Section 7-102 of the Act for the Department's filing of a complain with the Commission shall be tolled during the period between issuance of the Department's notice of dismissal or default until entry of the Commission's order pursuant to Section hereof."

ILLINOIS CODE OF CIVIL PROCEDURE
S.H.A. CH. 110 §2-610 ET SEQ.

(A) GENERAL ISSUES SHALL NOT BE EMPLOYED. EVERY ANSWER AND SUBSEQUENT PLEADING SHALL CONTAIN AN EXPLICIT ADMISSION OR DENIAL OF EACH ALLEGATION OF THE PLEADING TO WHICH IT RELATES.
(B) EVERY ALLEGATION, EXCEPT ALLEGATIONS OF DAMAGES, NOT EXPLICITLY DENIED IS ADMITTED, UNLESS THE PARTY STATES IN HIS OR HER PLEADING THAT HE OR SHE HAS NO KNOWLEDGE THEREOF SUFFICIENT TO FORM A BELIEF, AND ATTACHES AN AFFIDAVIT OF THE TRUTH OF THE STATEMENT OF WANT OF KNOWLEDGE, OR UNLESS THE PARTY HAS HAD NO OPPORTUNITY TO DENY.
(C) DENIALS MUST NOT BE EVASIVE, BUT MUST FAILY ANSWER THE SUBSTANCE OF THE ALLEGATION DENIED.
(D) IF A PARTY WISHES TO RAISE AN ISSUE AS TO THE AMOUNT OF DAMAGES ONLY, HE OR SHE MAY DO SO BY STATING IN HIS OR HER PLEADING THAT HE OR SHE DESIRES TO CONTEST ONLY THE AMOUNT OF THE DAMAGES."

ILLINOIS HUMAN RIGHTS ACT
775 ILCS
5/2-102. CIVIL RIGHTS VIOLATIONS - -EMPLOYMENT. IT IS A CIVIL RIGHTS VIOLATION:
(A) EMPLOYERS. FOR ANY EMPLOYER TO REFUSE TO HIRE, TO SEGREGATE, OR TO ACT WITH RESPECT TO RECRUITMENT, HIRING, PROMOTION, RENEWAL OF EMPLOYMENT, SELECTION FOR TRAINING OR APPRENTICESHIP, DISCHARGE, DISCIPLINE, TENURE OR TERMS, PRIVILEGES OR CONDITIONS OF EMPLOYMENT ON THE BASIS OF UNLAWFUL DISCRIMINATION OR CITIZENSHIP STATUS."

5/6-101. ADDITIONAL CIVIL RIGHTS VIOLATIONS:
§6-101. ADDITIONAL CIVIL RIGHTS VIOLATIONS. IT IS A CIVIL RIGHTS VIOLATION FOR A PERSON, OR FOR TWO OR MORE PERSONS TO CONSPIRE, TO:
(A) RETALIATION. RETALIATE AGAINST A PERSON BECAUSE HE OR SHE HAS OPPOSED THAT WHICH HE OR SHE REASONABLE AND IN GOOD FAITH BELIEVES TO BE UNLAWFUL DISCRIMINATION, SEXUAL HARASSMENT IN EMPLOYMENT OR SEXUAL HARASSMENT IN HIGHER EDUCATION, DISCRIMINATION BASED

ON CITIZENSHIP STATUS IN EMPLOYMENT, OR BECAUSE HE OR SHE HAS MADE A CHARGE, FILED A COMPLAINT, TESTIFIED, ASSISTED, OR PARTICIPATED IN AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS ACT:
(B) AIDING AND ABETTING: COERCION. AID, ABET, COMPEL OR COERCE A PERSON TO COMMIT ANY VIOLATION OF THIS ACT:
(C) INTERFERENCE. WILFULLY INTERFERE WITH THE PERFORMANCE OF A DUTY OR THE EXERCISE OF A POWER BY THE COMMISSION OR ONE OF ITS MEMBERS OR REPRESENTATIVES OR THE DEPARTMENT OR ONE OF ITS OFFICERS OR EMPLOYEES. . ."

5/8A-104. RELIEF--PENALTIES

§8A-104. RELIEF; PENALTIES. UPON FINDING A CIVIL RIGHTS VIOLATION, A HEARING OFFICER MAY RECOMMEND AND THE COMMISSION OR ANY THREE-MEMBER PANEL THEREOF MAY PROVIDE FOR ANY RELIEF OR PENALTY IDENTIFIED IN THIS SECTION, SEPARATELY OR IN COMBINATION, BY ENTERING AN ORDER DIRECTING THE RESPONDENT TO:
(A) CEASE AND DESIST ORDER. CEASE AND DESIST FROM ANY VIOLATION OF THIS ACT.

(B) Actual Damages. Pay actual damages, as reasonably determined by the Commission, for injury or loss suffered by the complainant.
(C) Hiring; Reinstatement; Promotion; Backpay; Fringe Benefits. Hire, reinstate or upgrade the complainant with or without back pay or provide such fringe benefits as the complainant may have been denied.
(D) Restoration of Membership; Admission To Programs.
(E) Public Accommodations. Admit the complainant to a public accommodation.
(F) Services. Extend to the complainant the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent.
(G) Attorneys Fees; Costs. Pay to the complainant all or a portion of the costs of maintaining the action, including reasonable attorney fees and expert witness fees incurred in maintaining this action before the Department, the Commission and in any judicial review and judicial enforcement proceedings. Provided, however, that no award of attorney fees or costs

SHALL BE MADE PURSUANT TO THIS AMENDATORY ACT OF 1987 WITH RESPECT TO ANY CHARGE FOR WHICH THE COMPLAINT BEFORE THE COMMISSION WAS FILED PRIOR TO DECEMBER 1, 1987. WITH RESPECT TO ALL CHARGES FOR WHICH COMPLAINTS WERE FILED WITH THE COMMISSION PRIOR TO DECEMBER 1, 1987, ATTORNEY FEES AND COSTS SHALL BE AWARDED PURSUANT TO THIS SUBSECTION AS IT EXISTED PRIOR TO REVISION BY THIS AMENDATORY ACT OF 1987.

(H) COMPLIANCE REPORT. REPORT AS TO THE MANNER OF COMPLIANCE.

(I) POSTING OF NOTICES. POST NOTICES IN A CONSPICUOUS PLACE WHICH THE COMMISSION MAY PUBLISH OR CAUSE TO BE PUBLISHED SETTING FORTH REQUIREMENTS FOR COMPLIANCE WITH THIS ACT OR OTHER RELEVANT INFORMATION WHICH THE COMMISON DETERMINES NECESSARY TO EXPLAIN THIS ACT.

(J) MAKE COMPLAINANT WHOLE. TAKE SUCH ACTION AS MAY BE NECESSARY TO MAKE THE INDIVIDUAL COMPLAINANT WHOLE, INCLUDING, BUT NOT LIMITED TO, AWARDS OF INTEREST ON THE COMPLAINANT'S ACTUAL DAMAGES AND BACKPAY FROM THE DATE OF THE CIVIL RIGHTS VIOLATION. PROVIDED,

HOWEVER, THAT NO AWARD OF PREJUDGMENT INTEREST SHALL BE MADE PURSUANT TO THIS AMENDATORY ACT OF 1987 WITH RESPECT TO ANY CHARGE IN WHICH THE COMPLAINT BEFORE THE COMMISSION WAS FILED PRIOR TO DECEMBER 1, 1987. WITH RESPECT TO ALL CHARGES FOR WHICH COMPLAINTS WERE FILED WITH THE COMMISSION PRIOR TO DECEMBER 1, 1987, MAKE WHOLE RELIEF SHALL BE AWARDED PURSUANT TO THIS SUBSECTION AS IT EXISTED PRIOR TO REVISION BY THIS AMENDATORY ACT OF 1987.

THERE SHALL BE NO DISTINCTION MADE UNDER THIS SECTION BETWEEN COMPLAINTS FILED BY THE DEPARTMENT AND THOSE FILED BY THE AGGRIEVED PARTY."

"28 USC §1254. Court of Appeals; Certiorari Certified Questions
Cases in the court of appeals may be reviewed by the Supreme Court by the following methods:
(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;"

"§1331. Federal Question
The District Courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

"§1332. Diversity of Citizenship; Amount in controversy; costs
(a) The district courts shall have original jurisdiction of alll civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and is between --
(1) citizens of different states;
(2) citizens of a State and citizens or subjects of a foreign state;
(3) citizens of different states and in which citizens or subjects of a

FOREIGN STATE ARE ADDITIONAL PARTIES; AND

(4) A FOREIGN STATE, DEFINED IN SECTION 1603(A) OF THIS TITLE [28 USCS §1603(A)], AS PLAINTIFF AND CITIZENS OF A STATE OR OF DIFFERENT STATES."

"§1343. CIVIL RIGHTS AND ELECTIVE FRANCHISE

(A) THE DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION OF ANY CIVIL ACTION AUTHORIZED BY LAW TO BE COMMENCED BY ANY PERSON:

(1) TO RECOVER DAMAGES FOR INJURY TO HIS PERSON OR PROPERTY, OR BECAUSE OF THE DEPRIVATION OF ANY RIGHT OR PRIVILEGE OF A CITIZEN OF THE UNITED STATES, BY ANY ACT DONE IN FURTHERANCE OF ANY CONSPIRACY MENTIONED IN SECTION 1985 OF TITLE 42 [42 USCS 1985];

(2) TO RECOVER DAMAGES FROM ANY PERSON WHO FAILS TO PREVENT OR TO AID IN PREVENTING ANY WRONGS MENTIONED IN SECTION 1985 OF TITLE 42 WHICH HE HAD KNOWLEDGE WERE ABOUT TO OCCUR AND POWER TO PREVENT;

(3) TO REDRESS THE DEPRIVATION, UNDER COLOR OF ANY STATE LAW, STATUTE, ORDINANCE, REGULATION, CUSTOM OR USAGE,

OF ANY RIGHT, PRIVILEGE OR IMMUNITY SECURED BY THE CONSTITUTION OF THE UNITED STATES OR BY ANY ACT OF CONGRESS PROVISING FOR EQUAL RIGHTS OF CITIZENS OR OF ALL PERSONS WITHIN THE JURISDICTION OF THE UNITED STATES; (4) TO RECOVER DAMAGES OR TO SECURE EQUITABLE OR OTHER RELIEF UNDER ANY ACT OF CONGRESS PROVISING FOR THE PROTECTION OF CIVIL RIGHTS, INCLUDING THE RIGHT TO VOTE."

"§1345. UNITED STATES AS PLAINTIFF EXCEPT AS OTHERWISE PROVIDED BY ACT OF CONGRESS, THE DISTRICT COURT SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS, SUITS OR PROCEEDINGS COMMENCED BY THE UNITED STATES, OR BY ANY AGENCY OR OFFICER THEREOF EXPRESSLY AUTHORIZED TO SUE BY ACT OF CONGRESS."

S.CT. RULE 14.1(I)(V) FROM PAGE 24

1986CF0866/051860408
1986CF1485/051862412
ILLINOIS DEPARTMENT OF HUMAN RIGHTS
FEBRUARY 15, 1990

LETTER FORWARDING COMPLAINANT'S SETTLEMENT DEMAND TO THE RESPONDENTS' ATTORNEY BY MR. W. STERLING CARY, PROGRAM ADMINISTRATOR FOR THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS ACTING AS FEP AGENT FOR THE EEOC.

MICHAEL A. WEINBAUM
SENIOR ATTORNEY
CONTAINER CORPORATION OF AMERICA
1 FIRST NATIONAL PLAZA
SUITE 5400
CHICAGO, ILLINOIS 60603

RE: BETTS VS. CONTAINER CORPORATION OF AMERICA, CHARGE NOS. 1986CF0866 AND 1986CF1485

DEAR MR. WEINBAUM:

I HAVE HAD THE OPPORTUNITY TO SPEAK WITH MS. BETTS REGARDING HER "MAKE

WHOLE" SETTLEMENT DEMAND AND INFORMED HER WHAT IS RECOVERABLE UNDER THE ILLINOIS HUMAN RIGHTS ACT.

PURSUANT TO MS. BETTS INSISTENCE, PLEASE FIND ENCLOSED IN ITS ENTIRETY HER "MAKE WHOLE" SETTLEMENT DEMAND IN ITS ORIGINAL FORM. PLEASE RESPOND TO THE UNDERSIGNED WITHIN TEN (10) DAYS AFTER RECEIPT OF THIS LETTER WITH YOUR POSITION TO THE PROPOSED SETTLEMENT OFFER AND/OR CLARIFICATION. YOUR FAILURE TO DO SO WILL RESULT IN CONCILIATION EFFORTS BEING CLOSED AND A COMPLAINT BEING FILED WITH THE ILLINOIS HUMAN RIGHTS COMMISSION FOR A PUBLIC HEARING.

SINCERELY,
W. STERLING CARY
PROGRAM ADMINISTRATOR
/A
ENCLOSURE
CC: DONNA M. BETTS

(S. CT. RULE 14.1 (I) SUB (VI))

ILLINOIS CHARGE NOS.: 1986CF0866
1986CF1485
EEOC CHARGE NOS.: 051860408
051862412
ILLINOIS HUMAN RIGHTS COMMISSION
ISSUED AND FILED: MAY 18, 1990

IN THE MATTER OF:
DONNA BETTS, COMPLAINANT,

VS.

CONTAINER CORPORATION OF AMERICA,
RESPONDENT

STATE AND FEDERAL COMPLAINT OF CIVIL RIGHTS VIOLATION FILED BY JOYCE E. TUCKER, DIRECTOR OF THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS, AS FEP AGENT FOR THE EEOC.

COMPLAINT OF CIVIL RIGHTS VIOLATION

IN ACCORDANCE WITH PROVISIONS OF THE ILLINOIS HUMAN RIGHTS ACT, ("ACT") ILL. REV. STAT., CH. 68, SECTION 1-101 ET SEQ., AND PURSUANT

TO THE AUTHORITY VESTED IN IT BY THE ACT, THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS ("DEPARTMENT") HEREBY ISSUES AND FILES ITS COMPLAINT IN THIS CAUSE AS FOLLOWS:

COUNT ONE

PARAGRAPH ONE: THAT COMPLAINANT, DONNA BETTS, FILED CHARGE NO(S). 1986 CF 1485 AND 1986 CF 0866 WITH THE DEPARTMENT ON OCTOBER 16, 1985, ALLEGING ON HER OWN BEHALF TO HAVE BEEN AGGRIEVED BY PRACTICES PROHIBITED BY SECTION 2-102(A) OF THE ILLINOIS HUMAN RIGHTS ACT;

PARAGRAPH TWO: THAT AT THE TIME OF THE INCIDENTS COMPLAINED OF HEREIN, RESPONDENT, CONTAINER CORPORATION OF AMERICA, WAS AN "EMPLOYER" WITHIN THE MEANING OF SECTION 2-101(B)(1)(A) AND WAS SUBJECT TO THE PROVISIONS OF THE ACT;

PARAGRAPH THREE: That Respondent hired Complainant who is black, in March 1980 as a Legal Secretary;

PARAGRAPH FOUR: That throughout Complainant's employment with Respondent, she performed her duties at a standard which was considered acceptable for Respondent's employees;

PARAGRAPH FIVE: That on October 9, 1985 Respondent denied Complainant's request for a transfer to a vacant position;

PARAGRAPH SIX: That Respondent's stated reason for not transferring Complainant to another department was because the Employee Relations Department would not allow the transfer because she was considered a problem employee due to her inability to get along with her supervisor;

PARAGRAPH SEVEN: That Complainant's similarly situated non-black co-worker, Cheryl Larson who also could not get along with her supervisor, Mary Thorkelson was allowed to transfer to another department;

PARAGRAPH EIGHT: That on October 11, 1985, Respondent discharged Complainant;

PARAGRAPH NINE: That Respondent's stated reason for discharging Complainant was because of her inability to get along with her supervisor;

PARAGRAPH TEN: That Respondent's stated reasons for not transferring Complainant and discharging her were pretextual;

PARAGRAPH ELEVEN: That Respondent subjected Complainant to unequal terms and conditions of employment because of her race, black, by not

TRANSFERRING HER AND DISCHARGING HER, IN VIOLATION OF SECTION 2-102(A) OF THE ACT;

COUNT TWO

PARAGRAPHS ONE THROUGH FOUR: THAT PARAGRAPHS ONE THROUGH FOUR OF COUNT ONE OF COMPLAINANT'S COMPLAINT ARE REALLEGED HEREIN AS PARAGRAPHS ONE THROUGH FOUR OF COUNT TWO AS IF MORE THOROUGHLY RECITED HEREIN;

PARAGRAPH FIVE: THAT ON NOVEMBER 22, 1985 RESPONDENT MADE STATEMENTS TO THE ILLINOIS DEPARTMENT OF EMPLOYMENT AND SECURITY WHICH RESULTED IN THEIR DENIAL OF HER APPLICATION FOR BENEFITS;

PARAGRAPH SIX: RESPONDENT DENIES MAKING ANY ATTEMPT TO DENY COMPLAINANT HER UNEMPLOYMENT BENEFITS;

PARAGRAPH SEVEN: That Respondent did inform the Illinois Department of Employment and Security that Complainant voluntarily quit her position at Respondent;

PARAGRAPH EIGHT: That Respondent's misstatement resulted in said denial;

PARAGRAPH NINE: That Respondent retaliated against Complainant by giving misstatements to the Illinois Department of Employment and Security resulting in her denial of benefits in violation of Section 6-101(A) of the Act.

WHEREFORE an Order is requested providing the following relief:

(A) That Respondent reinstate Complainant in the position she held at the time of her discharge or a position of equal status and responsibility satisfactory to Complainant, at a rate of pay comparable

TO WHAT SHE WOULD BE RECEIVING BUT FOR THE CIVIL RIGHTS VIOLATION COMMITTED AGAINST HER BY RESPONDENT;

(B) THAT RESPONDENT PAY TO COMPLAINANT A SUM EQUAL ANY LOSS OF WAGES SHE MAY HAVE SUFFERED AS A RESULT OF THE CIVIL RIGHTS VIOLATIONS COMMITTED AGAINST HER BY RESPONDENT;

(C) THAT COMPLAINANT BE MADE WHOLE AS TO ALL BENEFITS AND SENIORITY STATUS THAT WOULD HAVE ACCRUED TO HER BUT FOR THE CIVIL RIGHTS VIOLATIONS COMMITTED AGAINST HER BY RESPONDENT;

(D) THAT RESPONDENT CLEAR FROM COMPLAINANT'S PERSONNEL RECORDS ALL REFERENCE TO THE FILING OF THIS CHARGE, AND SUBSEQUENT DISPOSITION THEREOF, BENEFITS AND SENIORITY;

(E) THAT RESPONDENT CEASE AND DESIST FROM DISCRIMINATING ON

THE BASIS OF PHYSICAL HANDICAP IN ITS EMPLOYMENT PRACTICES;

(F) THAT RESPONDENT PAY TO COMPLAINT REASONABLE ATTORNEY'S FEES AND COSTS INCURRED AS RESULT OF THE CIVIL RIGHTS VIOLATION ALLEGED HEREIN; AND

(G) THAT SUCH FURTHER RELIEF BE GRANTED AS MAY BE NECESSARY TO MAKE COMPLAINANT WHOLE.

ISSUED AND FILED THIS 18TH. DAY OF MAY. 1990.

DEPARTMENT OF HUMAN RIGHTS
BY: JOYCE E. TUCKER. DIRECTOR

(S. CT. RULE 14.1(I) SUB (VI))

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION
ENTERED: JUNE 29, 1992

CHARGE NOS. 1986CF0866
1986CF1485
EEOC NOS. 051860408
051862412
ALS NO. 4459

IN THE MATTER OF:)
)
DONNA M. BETTS,)
COMPLAINANT,)
)
AND)
)
CONTAINER CORPORATION)
OF AMERICA,)
RESPONDENT.)

THIS ORDER WAS ENTERED BY THE ILLINOIS HUMAN RIGHTS COMMISSION ON THE MAY 18, 1990 CONSOLIDATED COMPLAINT FILED BY THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS AFTER THE COMPLAINANT HAD FILED APPEALS AS REQUESTS FOR REVIEW.

ORDER

THIS MATTER COMES BEFORE THE FULL COMMISSION PURSUANT TO PLAINTIFF'S MOTION REQUEST FOR FINAL RULINGS AND ORDERS. IT IS NOT CLEAR WHAT THIS PLEADING IS. WE HAVE ACCEPTED IT AS A PETITION FOR REHEARING EN BANC. THE PLEADING FAILS, HOWEVER, TO COMPLY WITH OUR RULES BECAUSE IT WAS NOT SERVED ON THE OTHER PARTY. IN FACT, THE COMPLAINANT NAMES THE ADMINISTRATIVE LAW SECTION OF THE HUMAN RIGHTS COMMISSION AS A "DEFENDANT". BECAUSE THIS PLEADING IS IMPROPER, WE FIND IT MUST BE STRICKEN.

IT IS THEREFORE ORDERED:

1. THT THE INSTANT PLEADING IS STRICKEN;

2. THAT THE THREE-MEMBER PANEL DECISION IS NOW FINAL AND APPEALABLE.

HUMAN RIGHTS COMMISSION

(COMMISSIONER MANUEL BARBOSA,
COMMISSIONER MATHILDA A. JAKUBOWSKI,
COMMISSIONER DOLLY HALLSTROM,
COMMISSIONER ALOYSIUS A. MAZEWSKI,
JR., COMMISSIONER STEPHEN MORRILL,
COMMISSIONER JARVIS WILLIAMS,
COMMISSIONER JANE HAYES RADER,
COMMISSIONER WALLACE L. HEIL,
COMMISSIONER DEBRA NESSELSON)

(S. CT. RULE 14.1(I)(VI)